

claimant was not temporarily totally disabled. This issue is not reviewable by the Appeals Board as it is not a jurisdictional issue set forth in K.S.A 44-534a(a)(2).

(1) On the date of the alleged accident, September 14, 1994, claimant was employed by the respondent as the manager of a motel located about three (3) miles outside the city of Oakley, Kansas. Claimant was injured when he was attempting to drive to town to deposit receipts from the motel and to pick up business mail at the post office which, he testified, were part of his regular duties as manager of the motel. On the morning of September 14, 1994, claimant started his car that was located in the motel parking lot in order to drive to the bank and post office in Oakley. The car stopped before he could drive from the parking lot. He got out of the car and opened the hood to release the choke that was stuck. When he closed the hood, the car was on an incline and started to roll. Claimant put his right foot in the car in an attempt to stop the car with the foot brake. However, his right foot got hung up underneath the brake pedal and at the same time his left foot slipped out from under him, causing him to fall onto the surface of the parking lot. The car then ran over the claimant. Claimant was taken by ambulance to the Logan County Hospital in Oakley. He received treatment for injuries to his left heel, left knee and right elbow. The most severe injury was the avulsion injury to his left heel which required debridement surgery and subsequent physical therapy treatment.

Medical records were offered and admitted at the preliminary hearing by the claimant that described the injuries claimant sustained and the medical treatment that he received. Additionally, a summary of the medical expenses he incurred was offered by the claimant and admitted at the preliminary hearing.

The respondent argues that the claimant did not suffer a work-related injury on September 14, 1994 alleging that claimant was not injured while performing work-related duties for the respondent. It is the respondent's contention that the claimant received his injuries while he was repairing his own automobile on his own personal time for personal purposes. The Appeals Board disagrees with the respondent and finds that the claimant's testimony is uncontroverted and, therefore, establishes that the claimant's injuries occurred while he was performing his regular motel duties for the respondent.

(2) The wife of the claimant was employed by the respondent in the capacity of assistant manager at the motel. With respect to the notice issue, the Administrative Law Judge found that notice requirement contained in K.S.A. 44-520 was satisfied because the claimant's wife, in her capacity as the assistant manager, had actual notice of claimant's accident. The Appeals Board agrees with the Administrative Law Judge in reference to the notice issue and thus affirms this finding.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge George R. Robertson, dated June 28, 1995, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of September, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Gregory D. Worth, Lenexa, Kansas
Stan R. Singleton, Derby, Kansas
George R. Robertson, Administrative Law Judge
Philip S. Harness, Director